

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
225 CADMAN PLAZA EAST
BROOKLYN, NEW YORK 11201

CHAMBERS OF
EDWARD R. KORMAN
DISTRICT JUDGE

July 12, 2012

Tiffany Phillips
Asst. General Counsel
DSCC
Grand Prairie Office Complex
U.S. Armed Forces Reserve Complex
346 Marine Forces Drive
Grand Prairie, TX 75051

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ JUL 17 2012 ★

re: Antoine Exinvil, #71278-053
✓CR-04-780

BROOKLYN OFFICE

Dear Ms. Phillips:

I write in response to the defendant's most recent filing concerning his status for early release eligibility. Specifically, in explaining why the defendant is not eligible for early release, the BP-AO0942 Form states that:

"Accordingly, despite the letter from the AUSA stating that there is no evidence that the inmate possessed a dangerous weapon, the fact still remains that the USPO assessed the inmate a 2pt SOC enhancement for weapons possession and this enhancement was adopted by the Court at sentencing. Until the sentencing judge makes a specific finding to the contrary (that the inmate was not in possession of a firearm during the commission of the current offense), the DSCC's determination finding inmate Exinvil ineligible for 3621(e) early release eligibility will stand. This is to inform you that, while the 2D1.1(b)(1) enhancement remains in the presentence report, a specific finding was never made by this court."

I did not make the finding that the defendant did not have possession of a firearm because the defendant faced a mandatory minimum sentence of one hundred and twenty months. Any amendment to the presentence report would have had no effect on the sentence he faced. Had the mandatory minimum not been in effect, I would have accepted the representation of the Assistant

U.S. Attorney and found that there was no evidence that the defendant possessed a dangerous weapon. I trust this information will entitle the defendant to a reevaluation of his eligibility for early release.

Sincerely,

s/Edward R. Korman

cc: FPC Lewisburg, Legal Department
Antoine Exinvil